

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
EASTMAN CHEMICAL COMPANY,

Plaintiff,

v.

NESTLÉ WATERS MANAGEMENT &
TECHNOLOGY,

Defendant.
----- X

: ECF Case

: 11 CV 2589 (JPO) (HBP)

: ~~PROPOSED~~ AMENDED CIVIL
: CASE MANAGEMENT
: PLAN AND SCHEDULING ORDER

This Civil Case Management Plan (the "Plan") is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).

1. Pursuant to Judge Marrero's September 7, 2011 Order (Docket #19, attached as an exhibit), this action has been referred to Magistrate Judge Henry B. Pitman for general pretrial purposes and reporting upon dispositive motions.
2. Settlement discussions have not taken place.
3. The parties have conferred pursuant to Fed. R. Civ. P. 26(f).
4. Defendant shall file its answer no later than October 26, 2012.
5. Any motion to amend or to join additional parties to the pleadings shall be filed within 30 days from the date of this Order or 21 days from the date the original pleading was filed, whichever is later.
6. Initial disclosures were exchanged on August 29, 2011.
7. Fact Discovery:
 - a. All fact discovery shall be completed no later than July 19, 2013.
 - b. Initial requests for production of documents regarding counts 1 and 2 shall be served by October 5, 2012.
 - c. Initial interrogatories shall be served by March 4, 2013.
 - d. Depositions shall be completed by July 19, 2013.

- e. Requests to admit shall be served by [April 25, 2013 OR June 14, 2013].
- f. Any of the deadlines in paragraphs 7(b)-7(e) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by July 19, 2013.

8. Expert Discovery:

- a. All expert discovery, including expert depositions, shall be completed no later than September 20, 2013.
 - b. Plaintiff's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made on or before August 5, 2013. Defendant's expert disclosures on counterclaims shall also be made by August 5, 2013.
 - c. Defendant's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made on or before September 4, 2013. Plaintiff's expert disclosures on counterclaims shall also be made by September 4, 2013.
 - d. The interim deadlines in paragraphs 8(b) and 8(c) may be extended by the written consent of all parties without application to the Court, provided that expert discovery is completed by September 20, 2013.
9. All motions and applications shall be governed by the Court's Individual Practices, including Judge Oetken's requirement of a pre-motion conference before a motion for summary judgment is filed. Pursuant to the authority of Fed. R. Civ. P. 16(c)(2), a motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing within fourteen (14) days after the close of expert discovery. If Plaintiff seeks to make an earlier motion for partial summary judgment on count 3 before the close of expert discovery, it may submit a request for a pre-motion conference on that count at any time. Defendant reserves its rights, in addition to any other objections or defenses it may have, to object to the timing of such a motion.

10. Settlement

- a. All counsel will discuss settlement within fourteen (14) days after the close of fact discovery.
- b. Counsel for both parties recommend that a settlement conference before Magistrate Pitman or a privately retained mediator be had within 30 days after the close of fact discovery.
- c. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order absent further order of the Court.

11. Unless otherwise ordered by the Court, within thirty (30) days of the close of all discovery, or, if a dispositive motion has been filed, within thirty (30) days of a decision on such motion, the parties shall submit to the Court for its approval a Joint Final Pretrial Order prepared in accordance with the Court's Individual Practices and Fed. R. Civ. P. 26(a)(3). Any motions in limine shall be filed on or before the date on which the Final Pretrial Order is due. Proposed voir dire, jury instructions, and verdict form shall also be filed on or before the date the Final Pretrial Order due date. Counsel is required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Order due date, unless they meet the standard of Fed. R. Civ. P. 51(a)(2)(A).
12. The parties shall be ready for trial on 11-18-13; or, if a summary judgment motion is made, the parties will be ready for trial forty-five (45) days after a decision on a Motion for Summary Judgment.
13. This case is to be tried to a jury.
14. Counsel for the parties have conferred and their present best estimate of the length of trial is 1 week.
15. Other issues to be addressed at the Initial Pretrial Conference, including those set forth in Fed. R. Civ. P. 26(f)(3), are set forth below.

~~A settlement conference will be held [on or about] August 5, 2013, or at a time more convenient for the court~~ 9-11-13 @ 2:00 PM

Counsel for the Parties:

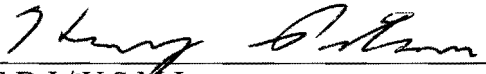
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~~The next Case Management Conference is scheduled for~~ _____ at _____

This Order may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Except as otherwise provided for by this Order, any application to modify or extend the dates herein (except as provided in paragraphs 7(f) and 8(d)) shall be made in a written application in accordance with Court's Individual Practices and shall be made no less than two (2) business days prior to the expiration of the date sought to be extended.

SO ORDERED.


~~U.S.D.J.~~ U.S.M.J.

Dated: 8-12-13
New York, New York

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